

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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VICTORIA LEEVSON, MICHAEL LEIBZON,  
MATANA ENTERPRISES LLC, KATHERINE TSIGEL,  
VADKAT, INC., VLADISLAV PUSTOV, and IMPERIAL  
ENTERPRISE SERVICES INC.,

Plaintiffs,

-against-

AQUALIFE USA, INC., AQUALIFE, INC., ALEX  
GITELMAN, YAKOV SIONOV, and VLADIMIR  
GORBACH,

Defendants.

-----X  
**Case No.:**  
1:14-cv-6905 (JBW) (VMS)

**DEFENDANTS'  
PROPOSED  
VERDICT FORM**

With respect to each of the causes of action, as outlined below, answer the following questions:

**I. Breach of Contract (Commissions)**

- A.** Have Plaintiffs proven by a preponderance of the evidence that they each had an agreement as follows:

Matana Enterprises LLC? Please use the charts below to answer for each Defendant.

Defendant	Yes	No
Aqualife USA Inc		
Aqualife Inc.		
Alex Gitelman		
Yakov Sionov		
Vladimir Gorbach		

Vadkat Inc? Please use the charts below to answer for each Defendant.

Defendant	Yes	No
Aqualife USA Inc		
Aqualife Inc.		
Alex Gitelman		
Yakov Sionov		
Vladimir Gorbach		

Imperial Enterprise Services Inc? Please use the charts below to answer for each Defendant.

<b>Defendant</b>	<b>Yes</b>	<b>No</b>
Aqualife USA Inc		
Aqualife Inc.		
Alex Gitelman		
Yakov Sionov		
Vladimir Gorbach		

Leevson? Please use the charts below to answer for each Defendant.

<b>Defendant</b>	<b>Yes</b>	<b>No</b>
Aqualife USA Inc		
Aqualife Inc.		
Alex Gitelman		
Yakov Sionov		
Vladimir Gorbach		

Leibzon? Please use the charts below to answer for each Defendant.

<b>Defendant</b>	<b>Yes</b>	<b>No</b>
Aqualife USA Inc		
Aqualife Inc.		
Alex Gitelman		
Yakov Sionov		
Vladimir Gorbach		

Tsigel? Please use the charts below to answer for each Defendant.

<b>Defendant</b>	<b>Yes</b>	<b>No</b>
Aqualife USA Inc		
Aqualife Inc.		
Alex Gitelman		
Yakov Sionov		
Vladimir Gorbach		

Pustov? Please use the charts below to answer for each Defendant.

<b>Defendant</b>	<b>Yes</b>	<b>No</b>
Aqualife USA Inc		
Aqualife Inc.		
Alex Gitelman		
Yakov Sionov		

Vladimir Gorbach		
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- B.** Have Plaintiffs proven by a preponderance of the evidence that they performed their obligations under the contract as to the following Plaintiffs:

Matana Enterprises LLC and Leibzon? Please use the charts below to answer for each Defendant.

Defendant	Yes	No
Aqualife Inc.		
Aqualife USA Inc		
Yakov Sionov		
Alex Gitelman		
Vladimir Gorbach		

Vadkat Inc? Please use the charts below to answer for each Defendant.

Defendant	Yes	No
Aqualife Inc.		
Aqualife USA Inc		
Yakov Sionov		
Alex Gitelman		
Vladimir Gorbach		

Pustov and Imperial Enterprise Services Inc? Please use the charts below to answer for each Defendant.

Defendant	Yes	No
Aqualife Inc.		
Aqualife USA Inc		
Yakov Sionov		
Alex Gitelman		
Vladimir Gorbach		

Leevson? Please use the charts below to answer for each Defendant.

Defendant	Yes	No
Aqualife Inc.		
Aqualife USA Inc		
Yakov Sionov		
Alex Gitelman		
Vladimir Gorbach		

Tsigel? Please use the charts below to answer for each Defendant.

<b>Defendant</b>	<b>Yes</b>	<b>No</b>
Aqualife Inc.		
Aqualife USA Inc		
Yakov Sionov		
Alex Gitelman		
Vladimir Gorbach		

- C. Have Plaintiffs proven by a preponderance of the evidence that each respective Defendant did not pay Plaintiffs in accordance with the agreement? Please use the charts below to answer each question.

Matana Enterprises LLC

<b>Defendant</b>	<b>Yes</b>	<b>No</b>
Aqualife USA Inc		
Aqualife Inc.		
Alex Gitelman		
Yakov Sionov		
Vladimir Gorbach		

Vadkat Inc

<b>Defendant</b>	<b>Yes</b>	<b>No</b>
Aqualife USA Inc		
Aqualife Inc.		
Alex Gitelman		
Yakov Sionov		
Vladimir Gorbach		

Imperial Enterprise Services Inc

<b>Defendant</b>	<b>Yes</b>	<b>No</b>
Aqualife USA Inc		
Aqualife Inc.		
Alex Gitelman		
Yakov Sionov		
Vladimir Gorbach		

Leevson

<b>Defendant</b>	<b>Yes</b>	<b>No</b>
Aqualife USA Inc		

Aqualife Inc.		
Alex Gitelman		
Yakov Sionov		
Vladimir Gorbach		

Leibzon

Defendant	Yes	No
Aqualife USA Inc		
Aqualife Inc.		
Alex Gitelman		
Yakov Sionov		
Vladimir Gorbach		

Tsigel

Defendant	Yes	No
Aqualife USA Inc		
Aqualife Inc.		
Alex Gitelman		
Yakov Sionov		
Vladimir Gorbach		

Pustov

Defendant	Yes	No
Aqualife USA Inc		
Aqualife Inc.		
Alex Gitelman		
Yakov Sionov		
Vladimir Gorbach		

- D. If your answer to either of the above questions is “Yes”, on the chart below please indicate Plaintiffs’ commission percentages or deductions due and the periods of time for those commissions.

Matana Enterprises LLC

Defendant	Commissions Due	Time Period
Aqualife USA Inc		
Aqualife Inc.		
Alex Gitelman		

Yakov Sionov		
Vladimir Gorbach		

Vadkat Inc

Defendant	Commissions Due	Time Period
Aqualife USA Inc		
Aqualife Inc.		
Alex Gitelman		
Yakov Sionov		
Vladimir Gorbach		

Imperial Enterprise Services Inc

Defendant	Commissions Due	Time Period
Aqualife USA Inc		
Aqualife Inc.		
Alex Gitelman		
Yakov Sionov		
Vladimir Gorbach		

Leevson

Defendant	Commissions Due	Time Period
Aqualife USA Inc		
Aqualife Inc.		
Alex Gitelman		
Yakov Sionov		
Vladimir Gorbach		

Leibzon

Defendant	Commissions Due	Time Period
Aqualife USA Inc		
Aqualife Inc.		
Alex Gitelman		
Yakov Sionov		
Vladimir Gorbach		

Tsigel

Defendant	Commissions Due	Time Period
Aqualife USA Inc		
Aqualife Inc.		
Alex Gitelman		
Yakov Sionov		
Vladimir Gorbach		

Pustov

Defendant	Commissions Due	Time Period
Aqualife USA Inc		
Aqualife Inc.		
Alex Gitelman		
Yakov Sionov		
Vladimir Gorbach		

## II. Fair Labor Standards Act & New York Labor Law

### i. Commerce

- A. Have Plaintiffs Leevson and Tsigel proven by a preponderance of the evidence that Defendants earned an annual dollar volume of sales or business of at least \$500,000.00 in the following years:

2008?

Yes  No

2009?

Yes  No

2010?

Yes  No

2011?

Yes  No

2012?

Yes  No

- B. Have Plaintiffs Leevson and Tsigel proven by a preponderance of the evidence that, while performing work for Defendants, Defendants were engaged in interstate commerce or in the production of goods for interstate commerce?

Yes       No

ii. Was each Defendant an employer of Plaintiffs Leevson and/or Tsigel?

- A. Have Plaintiffs Leevson and Tsigel proven by a preponderance of the evidence that the Defendants had the power to hire and fire Plaintiffs Leevson and Tsigel? Please use the chart below to answer for each Defendant.

Leevson

Defendant	Yes	No
Aqualife USA, Inc.		
Aqualife, Inc.		
Alex Gitelman		
Yakov Sionov		
Vladimir Gorbach		

Tsigel

Defendant	Yes	No
Aqualife USA, Inc.		
Aqualife, Inc.		
Alex Gitelman		
Yakov Sionov		
Vladimir Gorbach		

- B. Have Plaintiffs Leevson and Tsigel proven by a preponderance of the evidence that the Defendants supervised and controlled Plaintiffs Leevson and Tsigel's work schedules or other work conditions? Please use the chart below to answer for each Defendant.

Leevson

Defendant	Yes	No
Aqualife USA, Inc.		
Aqualife, Inc.		
Alex Gitelman		
Yakov Sionov		
Vladimir Gorbach		

Tsigel

<b>Defendant</b>	<b>Yes</b>	<b>No</b>
Aqualife USA, Inc.		
Aqualife, Inc.		
Alex Gitelman		
Yakov Sionov		
Vladimir Gorbach		

- C. Have Plaintiffs Leevson and Tsigel proven by a preponderance of the evidence that the Defendants determined Plaintiffs' Leevson's and Tsigel's rate and method of payment? Please use the chart below to answer for each Defendant.

Leevson

<b>Defendant</b>	<b>Yes</b>	<b>No</b>
Aqualife USA, Inc.		
Aqualife, Inc.		
Alex Gitelman		
Yakov Sionov		
Vladimir Gorbach		

Tsigel

<b>Defendant</b>	<b>Yes</b>	<b>No</b>
Aqualife USA, Inc.		
Aqualife, Inc.		
Alex Gitelman		
Yakov Sionov		
Vladimir Gorbach		

- D. Have Plaintiffs Leevson and Tsigel proven by a preponderance of the evidence that the Defendants failed to maintain employment records for Plaintiffs Leevson and Tsigel? Please use the chart below to answer for each Defendant.

Leevson

<b>Defendant</b>	<b>Yes</b>	<b>No</b>
Aqualife USA, Inc.		
Aqualife, Inc.		
Alex Gitelman		
Yakov Sionov		
Vladimir Gorbach		

Tsigel

Defendant	Yes	No
Aqualife USA, Inc.		
Aqualife, Inc.		
Alex Gitelman		
Yakov Sionov		
Vladimir Gorbach		

- E. Have Plaintiffs Leevson and Tsigel proven by a preponderance of the evidence that Defendants were employers of Plaintiffs Leevson and Tsigel? Please use the chart below to answer for each Defendant.

Leevson

Defendant	Yes	No
Aqualife USA, Inc.		
Aqualife, Inc.		
Alex Gitelman		
Yakov Sionov		
Vladimir Gorbach		

Tsigel

Defendant	Yes	No
Aqualife USA, Inc.		
Aqualife, Inc.		
Alex Gitelman		
Yakov Sionov		
Vladimir Gorbach		

iii. Plaintiffs' Leevson's and Tsigel's Work

- A. Did Plaintiffs Leevson and Tsigel prove that defendants exercised direction and control over them demonstrating an employer/employee relationship

Plaintiff	Yes	No
Leevson		
Tsigel		

B. Did Plaintiff Leevson prove that she was to be paid \$10.00 per hour by Defendants?

<b>Plaintiff</b>	<b>Yes</b>	<b>No</b>
Leevson		

C. Did Plaintiff Tsigel prove that she was to be paid \$10.00 per hour from January, 2007 until January, 2011 and \$11.00 per hour from January, 2011 until November 9, 2012 by Defendants?

<b>Plaintiff</b>	<b>Yes</b>	<b>No</b>
Tsigel (\$10.00 per hour from 1/07-1/11)		
Tsigel (\$11.00 per hour from 1/11-11/9/12)		

D. Did Plaintiffs Leevson and Tsigel prove by a preponderance of the evidence that when they each provided services for Defendants, they worked in excess of forty (40) hours each week? Please use the chart below to answer for each Plaintiff.

<b>Plaintiff</b>	<b>Yes</b>	<b>No</b>
Leevson		
Tsigel		

iv. Wage Notice Claims

A. Have Plaintiffs Leevson and Tsigel proven by a preponderance of the evidence that Defendants were obligated to provide and failed to provide annual wage notices to Plaintiffs Leevson and Tsigel in 2011 and 2012? Please use the chart below to answer for each Defendant.

Leevson

<b>Defendant</b>	<b>Yes</b>	<b>No</b>
Aqualife USA, Inc.		
Aqualife, Inc.		
Alex Gitelman		
Yakov Sionov		
Vladimir Gorbach		

Tsigel

<b>Defendant</b>	<b>Yes</b>	<b>No</b>
Aqualife USA, Inc.		
Aqualife, Inc.		
Alex Gitelman		

Yakov Sionov		
Vladimir Gorbach		

B. Have Plaintiffs Leevson and Tsigel proven by a preponderance of the evidence that Defendants failed to provide a wage statement to Plaintiffs Leevson and Tsigel for every pay period Defendants allegedly issued Plaintiffs Leevson and Tsigel compensation? Please use the chart below to answer for each Defendant.

Defendant	Yes	No
Aqualife USA, Inc.		
Aqualife, Inc.		
Alex Gitelman		
Yakov Sionov		
Vladimir Gorbach		

C. Have Plaintiffs Leevson and Tsigel proven by a preponderance of the evidence that Defendants failed to provide Plaintiffs Leevson and Tsigel with a designation of employment status either as an employee or an independent contractor on any check issued to plaintiffs. Please use the chart below to answer for each Defendant.

Defendant	Yes	No
Aqualife USA, Inc.		
Aqualife, Inc.		
Alex Gitelman		
Yakov Sionov		
Vladimir Gorbach		

### **III. Defendants' Defenses under the Fair Labor Standards Act & New York Labor Law**

#### **i. Independent Contractor Defense under the FLSA and the NYLL**

A. Have Defendants proven by a preponderance of the evidence that Plaintiffs Leevson and Tsigel acted through their corporations as independent contractors of the Defendants? Please use the chart below to answer for each Plaintiff.

Plaintiff	Yes	No
Leevson through Matana Enterprises LLC		
Tsigel through Vadkat Inc		

B.. Have Defendants proven by a preponderance of the evidence that Plaintiffs' corporations provided any bills and/or invoices for work performed by Plaintiffs Leevson and Tsigel? Please use the chart below to answer for each Plaintiff.

Plaintiff	Yes	No

Leevson through Matana Enterprises LLC		
Tsigel through Vadkat Inc		

(If you determine that Plaintiffs Leevson and Tsigel were independent contractors, report to the Court. If you determine that Plaintiffs Leevson and Tsigel were not independent contractors, proceed to the questions immediately below in “ii”).

ii. Highly Compensated Employee Exemption

- A. Have Defendants proven by a preponderance of the evidence that Plaintiffs were highly compensated employees? Please use the chart below to answer for each Plaintiff.

Plaintiff	Yes	No
Leevson from 8/1/11 until 7/23/12		
Tsigel from 1/07 until 11/9/12		

iii. Outside Salesperson Exemption

- A. Have the Defendants proven by a preponderance of the evidence that Plaintiffs Leevson and Tsigel were outside salespeople?

Plaintiff	Yes	No
Leevson from 7/1/11 until 7/23/12		
Tsigel from 1/07 until 11/9/12		

(If you determine that Plaintiffs Leevson and Tsigel were highly compensated employees, or outside salespersons, report to the Court. If you determine that Plaintiffs Leevson and Tsigel were not any of the foregoing, answer the questions below).

#### IV. Damages

If you have determined that Plaintiffs are entitled to commissions, please answer the below.

Matana Enterprises LLC and Michael Liebzon

Defendant	Amount of Commissions	Notes
Aqualife USA Inc		
Aqualife Inc.		
Alex Gitelman		
Yakov Sionov		
Vladimir Gorbach		

Vadkat Inc.

<b>Defendant</b>	<b>Amount of Commissions</b>	<b>Notes</b>
Aqualife USA Inc		
Aqualife Inc.		
Alex Gitelman		
Yakov Sionov		
Vladimir Gorbach		

Imperial Enterprise Services Inc. and Vladislav Pustov

<b>Defendant</b>	<b>Amount of Commissions</b>	<b>Notes</b>
Aqualife USA Inc		
Aqualife Inc.		
Alex Gitelman		
Yakov Sionov		
Vladimir Gorbach		

Leevson from 7/1/11 until 7/23/12

<b>Defendant</b>	<b>Amount of Commissions</b>	<b>Notes</b>
Aqualife USA Inc		
Aqualife Inc.		
Alex Gitelman		
Yakov Sionov		
Vladimir Gorbach		

Tsigel

<b>Defendant</b>	<b>Amount of Commissions</b>	<b>Notes</b>
Aqualife USA Inc		
Aqualife Inc.		
Alex Gitelman		
Yakov Sionov		
Vladimir Gorbach		

Pustov for deductions of installations and gift fees

<b>Defendant</b>	<b>Amount of Commissions</b>	<b>Notes</b>
Aqualife USA Inc		
Aqualife Inc.		
Alex Gitelman		
Yakov Sionov		

Vladimir Gorbach		
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If you have determined that Plaintiffs' Leevson and Tsigel were employees and not subject to any exemptions, on the chart below, please indicate the hours Plaintiffs Leevson and Tsigel worked per week and the period of those weeks..

Plaintiff	Hours per week	From	Until
Leevson			
Tsigel			

- A. Has Plaintiff s Leevson and Tsigel proven by a preponderance of the evidence that when they provided services for Defendants, they were not paid wages due to them?

Plaintiff	Yes	No
Leevson		
Tsigel		

If your answer to either of the above questions is "Yes", on the chart below please indicate Plaintiff's regular rate of pay and the periods of those rates of pay.

Leevson			Tsigel		
Regular Hourly Rate of Pay	From	Until	Regular Hourly Rate of Pay	From	Until

- B. Was such failure to pay Plaintiffs' wages willful by Defendants?

\_\_\_\_\_ Yes      \_\_\_\_\_ No

- C. Have Plaintiffs Leevson and Tsigel proven by a preponderance of the evidence that when they provided services for Defendants, they were not paid overtime pay?

Plaintiff	Yes	No
Leevson		
Tsigel		

D. Was such failure to pay Plaintiffs' overtime pay willful by Defendants?

Yes  No

E. State the amount awarded to each Plaintiff for regular wages owed, if any.

Leevson \$ \_\_\_\_\_ Tsigel \$ \_\_\_\_\_

F. State the amount awarded to Plaintiff for overtime pay, if any.

Leevson \$ \_\_\_\_\_ Tsigel \$ \_\_\_\_\_

G. State the amount awarded to Plaintiff as liquidated damages, if any.

Leevson \$ \_\_\_\_\_ Tsigel \$ \_\_\_\_\_

H. State the amount awarded to Plaintiff in total, if any.

Leevson \$ \_\_\_\_\_ Tsigel \$ \_\_\_\_\_

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**FOREPERSON**

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**DATE**

Dated: Syosset, New York

August 1, 2017

Respectfully submitted,

**SOBEL LAW OFFICES, PC**

/s/ Svetlana Sobel SS4424

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Syosset, New York 11791

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For service of legal documents)

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